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In the Supreme Court
OF THE
United States

OCTOBER TERM, 1954

No. 358

WAIALUA AGRICULTURAL COMPANY, LIMITED,
Petitioner,

vs.

CHAGO MANEJA, et al.,
Respondents.

MEMORANDUM FOR RESPONDENTS.

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No. 358

WAIALUA AGRICULTURAL COMPANY, LIMITED,
Petitioner,

vs.

CIRACO MANEJA, et al.,
Respondents.

MEMORANDUM FOR RESPONDENTS.

Petitioner is a corporation engaged in the production of sugar cane in Hawaii, its manufacture there into raw sugar, its transportation from there to the mainland where it is refined and marketed from a plant in California operated by a cooperative association consisting of petitioner and other Hawaiian sugar producers. Respondents are employees of petitioner.

The question presented is the applicability of the overtime pay provisions of the Fair Labor Standards Act of

1938 (52 Stat. 1060, 29 U.S.C. Sections 201, *et seq.*) to the work performed by respondents.

While petitioner's treatment of the matters embraced in "Opinions Below", "Jurisdiction", and "Statutory Provisions Involved" (pp. 1-3) is satisfactory, its handling of the "Statement of the Case" (p. 5) and "Questions Presented" (p. 2) is not. The difference between the parties on these two points is seen by a comparison of the petition filed in this case by the employer, with the one filed on the same day by the employees.

For the employees (respondents here) are themselves petitioners in *Maneja, et al. v. Waialua Agricultural Company, Limited*, No. 357, October Term, 1954, involving the same parties and being a petition for writ of certiorari to review the same judgment as is involved in this proceeding. In that case the employees, as petitioners, have stated their view of the questions presented by the judgment below and have set forth what they believe to be a correct statement of the case.

With respect to the statement of the case, the principal difference appears to be that here Waialua has limited its statement to a resume of the pleadings and proceedings both in the trial Court and in the Court of Appeals which led to the judgment now sought to be reviewed, whereas in No. 357 the employees have not only included such a resume, but have also set forth the record evidence dealing with the nature of Waialua's operations and of the work performed by the employees. This factual matter, which appears in the petition for the writ in No. 357, pages 7 to 10, should be considered by the Court to give meaning to the questions presented by the petition for the writ in this proceeding.

With respect to the questions presented, the contrast between the parties is again manifest by the different treatment of this topic in both petitions. In the petition in this case, Waialua suggests that the only questions presented are procedural ones, since, it is said, the Court of Appeals did not decide the case on the merits but directed a dismissal only because of its view that the action was "collusive". However, as shown by the petition in No. 357, the Court of Appeals did reach the merits, and actually decided, contrary to the decisions of this Court, of other Courts of Appeals, and of administrative agencies, that none of the employees involved was engaged in commerce or the production of goods for commerce, and also stated that the agriculture exemption deprived all such employees of the statutory right to overtime compensation.

Thus, while the employees do not object to their employer formulating the question it wishes to argue in any way it sees fit, they do assert that the issues framed by the employer are much too narrow and make it impossible for the employees to present to this Court the questions as they see them, based upon a full consideration of the record. This Court should also review the issues raised by the employees in No. 357. The writ may, of course, be issued in that case as well as here, in which event this problem will be solved. Another possible solution is to consolidate the two proceedings so that one writ may embrace the questions raised by both petitions.

It would be an idle gesture for this Court to follow Waialua's suggestion and to reverse the Court of Appeals "with directions to review on the merits the issues

of statutory construction which were presented by the parties and the record and were determined by the judgment of the District Court". (Petition for Writ of Certiorari, No. 358, p. 3.) For the Court of Appeals has already made such a determination on the merits with respect to both commerce coverage and the agriculture exemption. And it has made it in a way which is directly contrary to the decisions of this Court, of other Courts of Appeals, and of administrative agencies, all as demonstrated in the petition in No. 357.

The employees earnestly suggest that to issue the writ only in this case and not in No. 357 would have the effect of further prolonging this already extended litigation.

The entire case is ripe for adjudication: full and complete findings of fact were made in the District Court; the Court of Appeals reversed those findings upon grounds which are clearly erroneous; and no valid reason exists for determining the case on a piecemeal basis. This Court should take the entire controversy and determine it on the merits once and for all.

Dated, San Francisco, California,
October 18, 1954.

Respectfully submitted,

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